

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**PATENT**

Application No.: To Be Assigned  
Filing Date: To Be Assigned  
Applicant: Melkent, et al.  
Group Art Unit: To Be Assigned  
Examiner: To Be Assigned  
Title: IMAGE GUIDED SPINAL SURGERY GUIDE, SYSTEM,  
AND METHOD FOR USE THEREOF  
Attorney Docket: 5074A-000021/COA

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1c971 U.S. PTO  
09/992546  
11/06/01

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**INFORMATION DISCLOSURE STATEMENT**

Sir:

Pursuant to 37 C.F.R. §§ 1.56, 1.97 and 1.98, Applicant hereby submits an Information Disclosure Statement for consideration by the Examiner.

I. **LIST OF PATENTS, PUBLICATIONS, AND OTHER INFORMATION**

The patents, publications and other information submitted for consideration by the Office (except unpublished U.S. patent applications) are listed on Form 1449 attached hereto.

II. **COPIES**

A. \_\_\_ Submitted herewith is a legible copy of (i) each U.S. patent application publication and U.S. and foreign patent; (ii) each publication or that portion which caused it to be listed; (iii) for each cited pending U.S. application, the application specification including the claims, and any drawing of the application which caused it to be listed including the claims directed to that portion; and (iv) all other information or that portion which caused it to be listed.

B. X Any patents, publications or other information which are listed on Form 1449 or on the copies of PTO-892, but which are not enclosed herewith, were previously cited by or submitted to the PTO in one of the following applications which has been relied upon for an earlier filing date under 35 U.S.C. § 120:

U.S. Serial Number  
09/209,248

U.S. Filing Date  
12/10/98

C.      This is a PCT application in the entry of the National Phase in the United States. A copy of the International Search Report is attached for the Examiner's information. The documents listed on the International Search Report are listed on the attached Form-1449 for consideration by the Examiner and for listing on any patent resulting from this application. Since the International Search Report was from the US, EPO, or JPO search authorities, copies of these references should have been supplied to the USPTO under the trilateral agreement and are believed to be in the file of the above-identified application. (MPEP 1893.03(g))

III. CONCISE EXPLANATION OF THE RELEVANCE (check at least one box)

A. X Except as may be indicated below in (B), all of the patents, publications or other information are in the English language (concise explanation not required).

B.      A concise explanation of the relevance of each patent, publication or other information listed that is not in the English language is as follows (see 37 C.F.R. § 1.98(a)(3)):

1.      See the attached foreign search report.
2.      English translations are provided for:
3.      Other:

C.      The following additional information is provided for the Examiner's consideration.

IV. CROSS REFERENCE TO RELATED APPLICATION(S)

A.      The Examiner is advised that the following co-pending application(s) contain(s) subject matter that may be related to the present application. A copy of each co-pending application is attached for the Examiner's information. By bringing this(these) application(s) to the Examiner's attention, Applicant(s) does(do) not waive the confidentiality provisions of 35 U.S.C. § 122.

Serial No.

Filing Date

Art Unit

V. THIS IDS IS BEING FILED UNDER

A. X 37 C.F.R. § 1.97(b): (check only one box)

1. X within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d) (37 C.F.R. § 1.97(b)(1)). No fee or certification is required.

2. \_\_\_\_ within three months of the date of entry of the national stage as set forth in §1.491 in an international application (37 C.F.R. § 1.97(b)(2)). No fee or certification is required.

3. \_\_\_\_ before the mailing of a first Office Action on the merits (37 C.F.R. § 1.97(b)(3)). No fee or certification is required. In the event that a first Office Action on the merits has been issued, please consider this IDS under 37 C.F.R. § 1.97(c) and see the certification under 37 C.F.R. § 1.97(e) below; or, if no certification has been made, charge our deposit account a fee in the amount of \$180.00 as required by 37 C.F.R. § 1.17(p).

4. \_\_\_\_ before the mailing of a first Office Action after the filing of a request for continued examination under 37 C.F.R. § 1.114. No fee or certification is required.

B. \_\_\_\_ 37 C.F.R. § 1.97(c): (check only one box)

• before the mailing date of either any Final Office Action under 37 C.F.R. § 1.113, a Notice of Allowance under 37 C.F.R. § 1.311, or an action that otherwise closes prosecution.

1. \_\_\_\_ No certification; therefore, a fee in the amount of \$180.00 is required by 37 C.F.R. § 1.17(p).

2. \_\_\_\_ See the certification below. No fee is required.

C. \_\_\_\_ 37 C.F.R. § 1.97(d):

• after the mailing date of either a Final Office Action under 37 C.F.R. § 1.113 or a Notice of Allowance under 37 C.F.R. § 1.311, yet on or before payment of the issue fee.

1. \_\_\_\_ See the certification below. A fee in the amount of \$180.00 is required by 37 C.F.R. § 1.17(p).

VI. CERTIFICATION UNDER 37 C.F.R. § 1.97(e): (check only one box)

The undersigned hereby certifies that:

A. ☐ each item of information contained in this IDS was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS (See 37 C.F.R. § 1.97(e)(1)); or

B. ☐ no item of information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this IDS (See 37 C.F.R. § 1.97(e)(2)).

C. ☐ Some of the items of information were first cited in a communication from a foreign patent office. As to this information, the undersigned hereby certifies that each item of information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS. As to the remaining information, the undersigned hereby certifies that no item of this remaining information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this IDS.

VII. PAYMENT OF FEES (check only one box)

A. ☐ A check in the amount of \$180.00 is enclosed for the above-identified fee.

B. ☐ Please charge Deposit Account No. 08-0750 in the amount of \$180.00 for the above-indicated fee. A duplicate copy of this paper is attached.

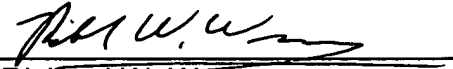
The above references are being cited only in the interest of candor and without any admission that they constitute statutory prior art, contain matter which anticipates the invention, or which would render the same obvious, either singly or in combination, to a person of ordinary skill in the art. Furthermore, this Information Disclosure Statement shall not be construed as a representation that a search has been made.

If it is determined that this IDS has been filed under the wrong rule, the PTO is requested to consider this IDS under the proper rule (with a petition if necessary) and charge the appropriate fee to Deposit Account No. 08-0750.

Please charge any additional fees or credit any overpayment pursuant to 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 08-0750.

Respectfully submitted,

Dated: Nov. 6, 2001

By:   
Richard W. Warner  
Reg. No. 38,043

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600

FORM HDP-1449 (Based on Form PTO-1449)

**PATENT AND TRADEMARK OFFICE**  
**INFORMATION DISCLOSURE CITATION**  
 (Use several sheets if necessary)

Sheet 1 of 4

ATTORNEY DOCKET NO.

5074A-000021/COA

SERIAL NO.

To Be Assigned

APPLICANT

Melkent, et al.

FILING DATE

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GROUP

To Be Assigned

10970 U.S. PTO  
09/992546



**U.S. PATENT DOCUMENTS**

Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
1.		5,921,992	07/13/99	Costales, et al.		
2.		5,920,395	07/06/99	Schulz		
3.		5,904,691	05/18/99	Barnett, et al.		
4.		5,891,157	04/06/99	Day, et al.		
5.		5,871,487	02/16/99	Warner, et al.		
6.		5,871,445	02/16/99	Bucholz		
7.		5,868,675	02/09/99	Henrion, et al.		
8.		5,851,183	12/22/98	Bucholz		
9.		5,848,967	12/15/98	Cosman		
10.		5,836,954	11/17/98	Heilbrun, et al.		
11.		5,834,759	11/10/98	Glossop		
12.		5,833,608	11/10/98	Acker		
13.		5,823,958	10/20/98	Truppe		
14.		5,800,535	09/01/98	Howard, III		
15.		5,799,055	08/25/98	Peshkin, et al.		
16.		5,795,294	08/18/98	Luber, et al.		
17.		5,776,064	07/07/98	Kalfas, et al.		
18.		5,772,594	06/30/98	Barrick		
19.		5,755,725	05/26/98	Druais		
20.		5,749,362	05/12/98	Funda, et al.		
21.		5,748,767	05/05/98	Raab		

Examiner:

Date Considered:

EXAMINER: Please initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FORM HDP-1449 (Based on Form PTO-1449)

**PATENT AND TRADEMARK OFFICE  
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(Use several sheets if necessary)

Sheet 2 of 4

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**U.S. PATENT DOCUMENTS**

Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
22.		5,732,703	03/31/98	Kalfas, et al.		
23.		5,711,299	01/27/98	Manwaring, et al.		
24.		5,695,501	12/09/97	Carol, et al.		
25.		5,695,500	12/09/97	Taylor, et al.		
26.		5,682,886	11/04/97	Delp, et al.		
27.		5,676,673	10/14/97	Ferre, et al.		
28.		5,662,111	09/02/97	Cosman		
29.		5,647,361	07/15/97	Damadian		
30.		5,638,819	06/17/97	Manwaring, et al.		
31.		5,630,431	05/20/97	Taylor		
32.		5,622,170	04/22/97	Schulz		
33.		5,617,857	04/08/97	Chader, et al.		
34.		5,603,318	02/18/97	Heilbrun, et al.		
35.		5,588,430	12/31/96	Bova, et al.		
36.		5,572,999	11/12/96	Funda, et al.		
37.		5,568,809	10/29/96	Ben-Haim		
38.		5,531,520	07/02/96	Grimson, et al.		
39.		5,531,227	07/02/96	Schneider		
40.		5,517,990	05/21/96	Kalfas, et al.		
41.		5,515,160	05/07/96	Schulz, et al.		

Examiner:

Date Considered:

EXAMINER: Please initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FORM HDP-1449 (Based on Form PTO-1449)

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(Use several sheets if necessary)

Sheet 3 of 4

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**U.S. PATENT DOCUMENTS**

Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
42.		5,494,034	02/27/96	Schlondorff, et al.		
43.		5,483,961	01/16/96	Kelly, et al.		
44.		5,447,154	09/05/95	Cinquin, et al.		
45.		5,402,801	04/04/95	Taylor		
46.		5,399,146	03/21/95	Nowacki, et al.		
47.		5,389,101	02/14/95	Heilbrun, et al.		
48.		5,383,454	01/24/95	Bucholz		
49.		5,309,913	05/10/94	Kormos, et al.		
50.		5,305,203	04/19/94	Raab		
51.		5,249,581	10/05/93	Horbale, et al.		
52.		5,198,877	03/30/93	Schulz		
53.		4,368,556	01/18/83	Wanner, et al.		
54.		5,299,288	03/29/94	Glassman, et al.		
55.		5,484,437	01/1996	Michelson		
56.		5,571,109	11/1996	Bertagnoli		
57.		5,671,857	04/1997	Chader, et al.		
58.		5,772,661	06/30/98	Michelson		
59.		WO 9,611,624	04/25/96	Bucholz, et al.		

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Date Considered:

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<b>FORM HDP-1449 (Based on Form PTO-1449)</b>  <b>PATENT AND TRADEMARK OFFICE</b> <b>INFORMATION DISCLOSURE CITATION</b> (Use several sheets if necessary)  Sheet 4 of 4	ATTORNEY DOCKET NO.	SERIAL NO.
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	APPLICANT	
	Melkent, et al.	
	FILING DATE	GROUP
	To Be Assigned	To Be Assigned

FOREIGN PATENT DOCUMENTS							
Ref. Desig.	Examiner's Initials	Document Number	Date	Country	Class/ Subclass	Translation Yes	No
1.		0 676 178 A1	10/1995	Europe			
2.		96/11624	04/1996	PCT			
3.		WO99/15097	04/01/99	PCT			
4.		WO97/40764	11/06/97	PCT			
5.		WO96/11624	04/25/96	PCT			
6.		WO94/24933	11/10/94	PCT			
7.		WO94/23647	10/27/94	PCT			
8.		WO92/06645	04/30/92	PCT			
9.		WO91/07726	05/30/91	PCT			
10.		WO91/04711	04/18/91	PCT			
11.		WO88/09151	12/01/88	PCT			

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, etc.)		
Ref. Desig.	Examiner's Initials	
1.		3-D Digitizing Accessories, Pixsys.

Examiner:	Date Considered:
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